

By: Metcalf

H.B. No. 26

A BILL TO BE ENTITLED

AN ACT

relating to the creation of an alert system to notify affected persons of certain releases of water from certain dams.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 12, Water Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. DAMS

Sec. 12.1500. DEFINITIONS. In this subchapter:

(1) "Alert system" means the Texas Dam Release Alert System.

(2) "Dam operator" means a political subdivision that operates a dam.

Sec. 12.1501. TEXAS DAM RELEASE ALERT SYSTEM. (a) With the cooperation of the Texas Department of Transportation, the office of the governor, dam operators, and other appropriate emergency response agencies, the commission shall implement the Texas Dam Release Alert System to be activated on behalf of a dam operator to warn potentially affected persons of possible floods.

(b) The alert system may be operated in conjunction with any other emergency alert system required by federal or state law. The alert system must be designed to notify potentially affected persons of a dam release through available means including:

(1) public and commercial television or radio broadcasts;

1 (2) a system of dynamic message signs located across
2 the state;

3 (3) posting on a website operated by a dam operator;
4 and

5 (4) reverse 9-1-1 calls, text messages, e-mails,
6 social media, and other instant messaging systems.

7 Sec. 12.1502. ADMINISTRATION; RULES. (a) The executive
8 director is the coordinator of the alert system and shall ensure
9 effective implementation of the system.

10 (b) The commission shall adopt rules to ensure effective
11 implementation of the alert system. The rules must include
12 instructions on the procedures for activating and deactivating the
13 alert system and updating alerts made by the system.

14 (c) The executive director shall prescribe forms for use by
15 dam operators in requesting activation of the alert system.

16 Sec. 12.1503. PARTICIPATION BY OTHER PERSONS. (a) The
17 executive director shall recruit public and commercial television
18 and radio broadcasters, private commercial entities, state or local
19 governmental entities, the public, and other appropriate persons to
20 assist in developing and implementing the alert system.

21 (b) The commission may enter into agreements with
22 participants in the alert system to provide necessary support for
23 the alert system.

24 Sec. 12.1504. ACTIONS OF DAM OPERATORS. (a) A dam operator
25 must request activation of the alert system, when practicable, at
26 least two hours before a release of water that the dam operator
27 reasonably believes will meet the criteria described by Section

1 12.1505(a).

2 (b) The dam operator must provide to the commission
3 information regarding the expected duration of the release, the
4 time of the release, the expected level of flooding that will
5 result, the name of the dam from which the release will occur, the
6 name of the affected river basin, and the county in which the dam is
7 located.

8 Sec. 12.1505. ACTIVATION OF ALERT SYSTEM. (a) On the
9 request of a dam operator, the executive director shall activate
10 the alert system if:

11 (1) a release of water from the dam operated by the dam
12 operator is to take place;

13 (2) flooding is a reasonable result from the release
14 of water; and

15 (3) flooding is likely to cause damage to life or
16 property.

17 (b) The commission may modify the criteria described by
18 Subsection (a) as necessary for the implementation of the alert
19 system.

20 Sec. 12.1506. REQUIRED CONTENT OF ALERT MESSAGE. A
21 notification issued under the alert system must include the
22 following:

23 (1) the name of the dam from which the release is to
24 occur;

25 (2) the county in which the dam is located;

26 (3) the affected river basin;

27 (4) the time of the release;

1 (5) the expected duration of the release;

2 (6) the potential level of flooding that will result
3 downstream; and

4 (7) any roadways or bridges that will be potentially
5 affected by flooding as a result of the release.

6 Sec. 12.1507. STATE AGENCIES. (a) A state agency
7 participating in the alert system shall:

8 (1) cooperate with the commission and assist in
9 developing and implementing the alert system; and

10 (2) establish a plan for providing relevant
11 information to its officers, investigators, or employees, as
12 appropriate, once the alert system has been activated.

13 (b) In addition to the requirements of Subsection (a), the
14 Texas Department of Transportation shall establish a plan for
15 providing relevant information to the public through an existing
16 system of dynamic message signs located across the state.

17 Sec. 12.1508. TERMINATION. The executive director shall
18 terminate an activation of the alert system when the release of
19 water has been completed.

20 SECTION 2. Section 12.052, Water Code, is transferred to
21 Subchapter F, Chapter 12, Water Code, as added by this Act,
22 redesignated as Section 12.1509, Water Code, and amended to read as
23 follows:

24 Sec. 12.1509 [12.052]. DAM SAFETY. (a) The commission
25 shall make and enforce rules and orders and shall perform all other
26 acts necessary to provide for the safe construction, maintenance,
27 repair, and removal of dams located in this state. In performing

1 the commission's duties under this subsection, the commission shall
2 identify and focus on the most hazardous dams in the state.

3 (b) Rules and orders made by the commission shall be made
4 after proper notice and hearing as provided in the rules of the
5 commission.

6 (b-1) The commission may enter into an agreement with an
7 owner of a dam who is required to reevaluate the adequacy of an
8 existing dam or spillway. The agreement may include timelines to
9 achieve compliance with the commission's design criteria and may
10 authorize deferral of compliance with the criteria, as appropriate.

11 (c) If the owner of a dam that is required to be constructed,
12 reconstructed, repaired, or removed in order to comply with the
13 rules and orders promulgated under Subsection (a) of this section
14 wilfully fails or refuses to comply within the 30-day period
15 following the date of the commission's final, nonappealable order
16 to do so or if a person wilfully fails to comply with any rule or
17 other order issued by the commission under this section within the
18 30-day period following the effective date of the order, he is
19 liable to a penalty of not more than \$5,000 a day for each day he
20 continues to violate this section. The state may recover the
21 penalty by suit brought for that purpose in the district court of
22 Travis County.

23 (d) If the commission determines that the existing
24 condition of the dam is creating or will cause extensive or severe
25 property damage or economic loss to others or is posing an immediate
26 and serious threat to human life or health and that other procedures
27 available to the commission to remedy or prevent the occurrence of

1 the situation will result in unreasonable delay, the commission may
2 issue an emergency order, either mandatory or prohibitory in
3 nature, directing the owner of a dam to repair, modify, maintain,
4 dewater, or remove the dam which the commission determines is
5 unsafe. The emergency order may be issued without notice to the dam
6 owner or with notice the commission considers practicable under the
7 circumstances. The notice does not have to comply with Chapter
8 2001, Government Code.

9 (e) If the commission issues an emergency order under
10 authority of this section without notice to the dam owner, the
11 commission shall fix a time and place for a hearing which shall be
12 held as soon as practicable to affirm, modify, or set aside the
13 emergency order. The notice does not have to comply with Chapter
14 2001, Government Code. If the nature of the commission's action
15 requires further proceedings, those proceedings shall be conducted
16 as appropriate under Chapter 2001, Government Code.

17 (e-1) The commission shall exempt an owner of a dam located
18 on private property from meeting requirements related to dam safety
19 if the dam:

20 (1) at maximum capacity impounds less than 500
21 acre-feet;

22 (2) has a hazard classification of low or significant;

23 (3) is located in a county with a population of less
24 than 350,000; and

25 (4) is not located inside the corporate limits of a
26 municipality.

27 (e-2) Notwithstanding Subsection (e-1), an owner of a dam

1 shall comply with operation and maintenance requirements
2 established by commission rule.

3 (f) Nothing in this section or in rules or orders made by the
4 commission shall be construed to relieve an owner or operator of a
5 dam or reservoir of the legal duties, obligations, or liabilities
6 incident to ownership or operation.

7 SECTION 3. This Act takes effect September 1, 2019.